

AMENDED IN SENATE AUGUST 16, 2011

AMENDED IN SENATE JUNE 14, 2011

AMENDED IN ASSEMBLY APRIL 25, 2011

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 878**

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**Introduced by Assembly Member Bill Berryhill  
(Principal coauthor: Assembly Member Monning)**

February 17, 2011

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An act to amend Section 7125 of the Business and Professions Code, relating to contractors.

### LEGISLATIVE COUNSEL'S DIGEST

AB 878, as amended, Bill Berryhill. Contractors: workers' compensation insurance.

Existing law, the Contractors' State License Law, provides for the licensing and regulation of contractors by the Contractors' State License Board within the Department of Consumer Affairs. Existing law authorizes the board to appoint a registrar of contractors and requires a workers' compensation insurer to report to the registrar specified information regarding a licensee's workers' compensation policy.

This bill would, additionally, require a workers' compensation insurer to report to the registrar a licensee whose workers' compensation insurance policy is canceled by the insurer if the insurer has completed a premium audit or investigation, a material misrepresentation has been made by the ~~policyholder~~ *insured* that results in financial harm to the insurer, and no reimbursement has been paid by the insured to the

insurer. The bill would provide that that information is not subject to the California Public Records Act. The bill would also provide that a willful or deliberate disregard and violation of workers' compensation insurance laws constitutes a cause for disciplinary action *by the registrar against the licensee*.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7125 of the Business and Professions  
2 Code, as amended by Section 1 of Chapter 423 of the Statutes of  
3 2010, is amended to read:

4 7125. (a) Except as provided in subdivision (b), the board shall  
5 require as a condition precedent to the issuance, reinstatement,  
6 reactivation, renewal, or continued maintenance of a license, that  
7 the applicant or licensee have on file at all times a current and  
8 valid Certificate of Workers' Compensation Insurance or  
9 Certification of Self-Insurance. A Certificate of Workers'  
10 Compensation Insurance shall be issued and filed, electronically  
11 or otherwise, by one or more insurers duly licensed to write  
12 workers' compensation insurance in this state. A Certification of  
13 Self-Insurance shall be issued and filed by the Director of Industrial  
14 Relations. If reciprocity conditions exist, as defined in Section  
15 3600.5 of the Labor Code, the registrar shall require the information  
16 deemed necessary to ensure compliance with this section.

17 (b) This section does not apply to an applicant or licensee who  
18 meets both of the following conditions:

19 (1) Has no employees provided that he or she files a statement  
20 with the board on a form prescribed by the registrar prior to the  
21 issuance, reinstatement, reactivation, or continued maintenance of  
22 a license, certifying that he or she does not employ any person in  
23 any manner so as to become subject to the workers' compensation

1 laws of California or is not otherwise required to provide for  
2 workers' compensation insurance coverage under California law.

3 (2) Does not hold a C-39 license, as defined in Section 832.39  
4 of Title 16 of the California Code of Regulations.

5 (c) No Certificate of Workers' Compensation Insurance,  
6 Certification of Self-Insurance, or ~~exemption certificate~~ *exemption*  
7 *certificate* is required of a holder of a license that has been  
8 inactivated on the official records of the board during the period  
9 the license is inactive.

10 (d) (1) The insurer, including the State Compensation Insurance  
11 Fund, shall report to the registrar the following information for  
12 any policy required under this section: name, license number,  
13 policy number, dates that coverage is scheduled to commence and  
14 lapse, and cancellation date if applicable.

15 (2) A workers' compensation insurer shall also report to the  
16 registrar a licensee whose workers' compensation insurance policy  
17 is canceled by the insurer if all of the following conditions are met:

18 (A) The insurer has completed a premium audit or investigation.

19 (B) A material misrepresentation has been made by the  
20 ~~policyholder~~ *insured* that results in financial harm to the insurer.

21 (C) No reimbursement has been paid by the insured to the  
22 insurer.

23 (3) Willful or deliberate disregard and violation of workers'  
24 compensation insurance laws constitutes a cause for disciplinary  
25 action *by the registrar against the licensee*.

26 (e) (1) For any license that, on January 1, 2011, is active and  
27 includes a C-39 classification in addition to any other classification,  
28 the registrar shall, in lieu of the automatic license suspension  
29 otherwise required under this article, remove the C-39 classification  
30 from the license unless a valid Certificate of Workers'  
31 Compensation Insurance or Certification of Self-Insurance is  
32 received by the registrar.

33 (2) For any licensee whose license, after January 1, 2011, is  
34 active and has had the C-39 classification removed as provided in  
35 paragraph (1), and who is found by the registrar to have employees  
36 and to lack a valid Certificate of Workers' Compensation Insurance  
37 or Certification of Self-Insurance, that license shall be  
38 automatically suspended as required under this article.

39 (f) The information reported pursuant to paragraph (2) of  
40 subdivision (d) shall be confidential, and shall be exempt from

1 disclosure under the California Public Records Act (Chapter 3.5  
2 (commencing with Section 6250) of Division 7 of Title 1 of the  
3 Government Code).

4 (g) This section shall remain in effect only until January 1, 2013,  
5 and as of that date is repealed, unless a later enacted statute, that  
6 is enacted before January 1, 2013, deletes or extends that date.

7 SEC. 2. Section 7125 of the Business and Professions Code,  
8 as amended by Section 2 of Chapter 423 of the Statutes of 2010,  
9 is amended to read:

10 7125. (a) The board shall require as a condition precedent to  
11 the issuance, reinstatement, reactivation, renewal, or continued  
12 maintenance of a license, that the applicant or licensee have on  
13 file at all times a current and valid Certificate of Workers'  
14 Compensation Insurance or Certification of Self-Insurance. A  
15 Certificate of Workers' Compensation Insurance shall be issued  
16 and filed, electronically or otherwise, by one or more insurers duly  
17 licensed to write workers' compensation insurance in this state. A  
18 Certification of Self-Insurance shall be issued and filed by the  
19 Director of Industrial Relations. If reciprocity conditions exist, as  
20 defined in Section 3600.5 of the Labor Code, the registrar shall  
21 require the information deemed necessary to ensure compliance  
22 with this section.

23 (b) This section does not apply to an applicant or licensee who  
24 has no employees provided that he or she files a statement with  
25 the board on a form prescribed by the registrar prior to the issuance,  
26 reinstatement, reactivation, or continued maintenance of a license,  
27 certifying that he or she does not employ any person in any manner  
28 so as to become subject to the workers' compensation laws of  
29 California or is not otherwise required to provide for workers'  
30 compensation insurance coverage under California law.

31 (c) No Certificate of Workers' Compensation Insurance,  
32 Certification of Self-Insurance, or ~~exemption certificate~~ *exemption*  
33 *certificate* is required of a holder of a license that has been  
34 inactivated on the official records of the board during the period  
35 the license is inactive.

36 (d) (1) The insurer, including the State Compensation Insurance  
37 Fund, shall report to the registrar the following information for  
38 any policy required under this section: name, license number,  
39 policy number, dates that coverage is scheduled to commence and  
40 lapse, and cancellation date, if applicable.

1 (2) A workers' compensation insurer shall also report to the  
2 registrar a licensee whose workers' compensation insurance policy  
3 is canceled by the insurer if all of the following conditions are met:

4 (A) The insurer has completed a premium audit or investigation.

5 (B) A material misrepresentation has been made by the  
6 policyholder insured that results in financial harm to the insurer.

7 (C) No reimbursement has been paid by the insured to the  
8 insurer.

9 (3) Willful or deliberate disregard and violation of workers'  
10 compensation insurance laws constitutes a cause for disciplinary  
11 action *by the registrar against the licensee*.

12 (e) The information reported pursuant to paragraph (2) of  
13 subdivision (d) shall be confidential, and shall be exempt from  
14 disclosure under the California Public Records Act (Chapter 3.5  
15 (commencing with Section 6250) of Division 7 of Title 1 of the  
16 Government Code).

17 (f) This section shall become operative on January 1, 2013.

18 SEC. 3. The Legislature finds and declares that Sections 1 and  
19 2 of this act, which amend Section 7125 of the Business and  
20 Professions Code, impose a limitation on the public's right of  
21 access to the meetings of public bodies or the writings of public  
22 officials and agencies within the meaning of Section 3 of Article  
23 I of the California Constitution. Pursuant to that constitutional  
24 provision, the Legislature makes the following findings to  
25 demonstrate the interest protected by this limitation and the need  
26 for protecting that interest:

27 In order to allow the Contractors' State License Board to fully  
28 implement the Contractors' State License Law, it is imperative to  
29 protect the interests of those persons submitting information to the  
30 board to ensure that any personal or sensitive business information  
31 that this act requires those persons to submit is protected as  
32 confidential information.